

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Miriam Lynch	Team: Squad #11	CCRB Case #: 201805568	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/10/2018 5:00 PM	Location of Incident: § 87(2)(b)	18 Mo. SOL 1/10/2020	Precinct: 111
Date/Time CV Reported Wed, 07/11/2018 8:42 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 07/11/2018 8:42 AM

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT William Arndt	00000	901135	111 PCT
2. CPT John Hall	00000	936725	111 PCT
3. POM James Caputo	15987	957424	111 PCT
4. POM Walter Feit	31577	940131	111 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 James Phillips	6889	930954	111 DET
2. POM Jordan Melexenis	17633	958922	111 PCT
3. POM Mateusz Baranowski	20527	958287	111 PCT
4. POM Nicholas Basilone	22978	938035	111 PCT
5. POM Victor Mevo	26777	965338	111 PCT
6. SGT Taehoon Chung	04107	933561	111 PCT
7. POM Christophe Maksym	28005	950808	111 PCT
8. POM Robert Dussel	25510	950363	111 PCT
9. POM Michael Defranco	03063	948860	111 PCT

Officer(s)	Allegation	Investigator Recommendation
A . CPT John Hall	Abuse: Captain John Hall supervised the entry of the backyard of § 87(2)(b) in Queens	
B . CPT John Hall	Abuse: Captain John Hall threatened to damage § 87(2)(b)'s property.	
C . POM Walter Feit	Force: Police Officer Walter Feit used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
D . POM James Caputo	Force: Police Officer James Caputo used physical force against § 87(2)(b)	
E . POM Walter Feit	Abuse: Police Officer Walter Feit threatened to arrest § 87(2)(b)	
F . CPT John Hall	Abuse: Captain John Hall stopped § 87(2)(b)	
G . CPT John Hall	Abuse: Captain John Hall frisked § 87(2)(b)	
H . LT William Arndt	Abuse: Lieutenant William Arndt threatened to arrest § 87(2)(b)	
I . LT William Arndt	Force: Lieutenant William Arndt used physical force against § 87(2)(b)	

Case Summary

On July 11, 2018, § 87(2)(b) filed this complaint with the CCRB via phone.

On July 10, 2018, at approximately 5:45 p.m., § 87(2)(b) officer and his wife, § 87(2)(b) were at their residence at § 87(2)(b) in Queens. § 87(2)(b) saw § 87(2)(b) and § 87(2)(b) in a white Range Rover outside of the § 87(2)(b) residence. § 87(2)(b)

§ 87(2)(g), § 87(2)(b) A firearm was allegedly pointed out of the vehicle at § 87(2)(b) who was inside of her residence, at the window. She alerted § 87(2)(b) § 87(2)(b), § 87(2)(f)

PO Jordan Melexenis and PO Michael DeFranco, both of the 111th Precinct, arrived at the § 87(2)(b) residence, where they were informed by § 87(2)(b) and § 87(2)(b) of what allegedly transpired. Lt. William Arndt and his driver PO James Caputo, also of the 111th Precinct, also arrived on scene. They were informed by the § 87(2)(b) family that § 87(2)(b) had gone to his house, which was a fraction of a block away. Lt. Arndt, PO Caputo, PO Melexenis, and PO DeFranco then went to § 87(2)(b) a location identified by the investigation as § 87(2)(b) s house. Once they arrived, they knocked on the door, and saw both § 87(2)(b) and § 87(2)(b) inside. After a brief conversation between Lt. Arndt and the members of the § 87(2)(b) family at the front door, the members of the § 87(2)(b) family closed the door.

A short time later, § 87(2)(b) and § 87(2)(b) went back to the front door, where they spoke with Lt. Arndt, PO Melexenis, and PO DeFranco, who tried to get them to convince § 87(2)(b) to leave the house. During this conversation, § 87(2)(b) and § 87(2)(b) locked themselves out of the house. They were joined a short while later by Captain John Hall, also of the 111th Precinct.

At approximately the same time, as ordered by Captain Hall, PO Walter Feit opened the gate that separated the backyard of the § 87(2)(b) residence from the driveway and sidewalk, and he, PO Victor Mevo, PO Caputo, and PO Robert Dussel, all of the 111th Precinct, waited in the back and watched the back of the house (**Allegation A: Abuse of Authority- Entry of Premises-** § 87(2)(g)). Captain Hall and Lt. Arndt said to § 87(2)(b) and § 87(2)(b) that the door to the house could be broken if § 87(2)(b) did not leave the house (**Allegation B- Abuse of Authority-** § 87(2)(g)). When § 87(2)(b) saw that officers were in his backyard, he walked back to the backyard and asked them to leave. PO Caputo and PO Feit pushed him out of the back of the backyard, and PO Feit said that he could be arrested if he did not leave (**Allegations C and D: Force-** § 87(2)(g); **Allegation E: Abuse of Authority-** § 87(2)(g)).

§ 87(2)(b) called her brother, § 87(2)(b) and told him that officers were going to break one of the doors of the house. § 87(2)(b) drove to the scene, and braked hard in front of the house, where he was stopped and frisked by Captain Hall (**Allegation F: Abuse of Authority-** § 87(2)(g); **Allegation G: Abuse of Authority-** § 87(2)(g)). § 87(2)(b) then gave his house keys to § 87(2)(b) who tried to approach the door to open it. Lt. Arndt told § 87(2)(b) that she would be arrested if she did not get away from

the door, and he pushed her away from the door (**Allegation H: Abuse of Authority -** § 87(2)(g); **Allegation I: Force-** § 87(2)(g)). PO Melexenis then told § 87(2)(b) that the front door to the house would be broken if § 87(2)(b) did not come out (**under Allegation B: Abuse of Authority-** § 87(2)(g)). § 87(2)(b) surrendered himself and was arrested for § 87(2)(b). § 87(2)(b) surrendered himself at his residence several blocks away, and was also arrested for § 87(2)(b). § 87(2)(b) provided the investigation five videos taken on his cellphone during his CCRB interview (Board Reviews 1, 2, 3, 4, and 5). He stated during his interview that he took all of the videos. § 87(2)(b) provided the investigation with five videos taken on her cellphone during her CCRB interview (Board Reviews 6, 7, 8, 9, 10, and 11). The NYPD provided the CCRB with 14 BWC videos from the cameras of Lt. Arndt, PO Melexenis, PO Caputo, PO Feit, PO Robert Dussel, PO Nicholas Basilone, and PO Mateusz Baranowski (Board Reviews 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24). The Queens District Attorney's office provided the investigation with three files of surveillance footage from § 87(2)(b), the house across the street, with cell phone footage taken by § 87(2)(b) (Board Reviews 25, 26, 27, and 28). Transcriptions of all of the footage are included in IA# 356 (Board Review 29).

§ 87(2)(g)

Findings and Recommendations

Allegation (A) Abuse of Authority: Captain John Hall supervised the entry of the backyard of § 87(2)(b) **in Queens.**

§ 87(2)(g)
§ 87(2)(b)
On July 10, 2018, § 87(2)(b) and § 87(2)(b) were driving near § 87(2)(b) looking for video footage regarding § 87(2)(b). They stopped at § 87(2)(b). During this time, § 87(2)(b) and § 87(2)(b) saw § 87(2)(b) taking video of them.

Shortly after § 87(2)(b) and § 87(2)(b) saw § 87(2)(b) drove § 87(2)(b) to § 87(2)(b)'s house, located at § 87(2)(b) in Queens, approximately one block away from § 87(2)(b)'s house at § 87(2)(b). § 87(2)(b), § 87(2)(f)

PO Melexenis and PO DeFranco were the first officers dispatched to § 87(2)(b)'s house, and that Lt. Arndt and PO Caputo arrived at the house shortly afterwards.

§ 87(2)(b) § 87(2)(b)'s wife, was home at the time, and that she told PO Melexenis, PO DeFranco, Lt. Arndt, and PO Caputo that the driver of the vehicle pointed a

firearm out of the window of a white Range Rover in her direction. Members of the § 87(2)(b) family pointed out § 87(2)(b)'s residence down the block as the place where he went after the incident.

Footage from § 87(2)(b)'s cellphone was also obtained from the Queens District Attorney's office, but it showed only the first time that § 87(2)(b)'s car drove past the § 87(2)(b) residence.

The first few seconds of PO Feit's body-worn camera footage show him pushing open the gate of the driveway of § 87(2)(b) and going into the backyard (Board Review 12, timestamps 00:00:02 to 00:00:33 in the video player; Board Review 34, the entirety of the video subclip). PO Caputo's, and PO Dussel's video footage also show them at the back of the residence (Board Review 11, timestamps 00:00:02 to 00:00:38 in the video player; Board Review 15, timestamps 00:00:02 to 00:00:30 in the video player; Board Reviews 35 and 36, the entirety of each video subclip). Lt. Arndt's BWC footage shows PO DeFranco saying that per the Threat Assessment Unit, there was "100% an order of protection" (Board Review 13, timestamps 00:25:21 to 00:25:29 in the video player; Board Review 37, the entirety of the video subclip).

After PO Melexenis, PO DeFranco, Lt. Arndt, and PO Caputo received this information, they went to § 87(2)(b)'s residence, where § 87(2)(b) opened the door. They asked to speak to § 87(2)(b) who was inside. § 87(2)(b) went back inside and asked § 87(2)(b) whether he would talk to the officers. He said that he would not, as he already had a pending criminal case regarding his previous interaction with the § 87(2)(b) family. § 87(2)(b) was joined at the front of the house by § 87(2)(b) and § 87(2)(b) respectively, her husband and daughter. They were all standing outside of the house, without a way to contact § 87(2)(b). Initially, Lt. Arndt and the other officers did not tell the family that § 87(2)(b) would be arrested, but when Captain Hall arrived, he said that he would arrest § 87(2)(b).

While Lt. Arndt, Captain Hall, and PO Melexenis were speaking with the members of the § 87(2)(b) family, PO Feit, PO Caputo, PO Mevo, and PO Dussel were ordered by Lt. Arndt to go to the backyard of the residence to watch the back windows of the house. A short time after they did, Lt. Arndt called the Emergency Services Unit.

§ 87(2)(b) and § 87(2)(b) who was driving his white Range Rover, went to § 87(2)(b) a house across the street from § 87(2)(b) to look for video footage. While he was knocking on the front door of the house, he saw § 87(2)(b) with his cellphone out. When he returned to the vehicle, he saw § 87(2)(b) taking video of § 87(2)(b) with his cellphone. He was unable to get footage from the house across the street—police had already confiscated it—so he had § 87(2)(b) drop him off at his uncle § 87(2)(b)'s house. While inside, he was asked to come out by his aunt to speak to the police, but declined, as he had a pending criminal case related to the § 87(2)(b) family. § 87(2)(b) denied at any time that either he or § 87(2)(b) menaced § 87(2)(b) § 87(2)(b) denied that any order of protection was issued as a result of the incident with § 87(2)(b) or § 87(2)(b).

§ 87(2)(b), § 87(2)(f)

§ 87(2)(b), § 87(2)(f)

§ 87(2)(b) testified that when she welcomed § 87(2)(b) to the house, he did not mention any interaction with the § 87(2)(b) family. Lt. Arndt then knocked on the door, and asked § 87(2)(b) to come out. No officer mentioned either an order of protection, or that crime that had been committed. She and the officers did not communicate much, as she does not speak English. § 87(2)(b) went into her house and asked for § 87(2)(b) who declined to come out. § 87(2)(b) came outside of the house, and found herself unintentionally locked out.

§ 87(2)(b) came out of his house when he heard § 87(2)(b) speaking with the officers. Lt. Arndt did not mention anything about § 87(2)(b) being under arrest. § 87(2)(b) then told the officers that they would not be coming into the house if they did not have a warrant. He tried to convince § 87(2)(b) to surrender himself, but the latter declined.

§ 87(2)(b) went outside when she heard both of her parents speaking with the police. She and her parents spoke with the officers for about 20 minutes, after which she saw officers approaching the backyard of the house, going beyond the gate that separated it from the front of the house. She saw § 87(2)(b) telling the officers that they were not permitted to go into the backyard of the house.

§ 87(2)(b) declined to participate in the investigation (Board Review 33).

PO DeFranco was an officer from the first unit to arrive at § 87(2)(b)'s house. § 87(2)(b), § 87(2)(f) § 87(2)(b) said that he had seen § 87(2)(b) and § 87(2)(b) and that there was a full stay-away order between them and the § 87(2)(b) family. § 87(2)(b) told PO DeFranco that she saw an arm covered in a sleeve of tattoos point a black firearm that looked like a § 87(2)(b) weapon from inside the white Range Rover. PO DeFranco and his partner, PO Melexenis attempted to verify the order of protection by looking it up on their Department-issued tablets, but were unable to verify it. At some point, PO DeFranco learned through Lt. Arndt that the NYPD's Threat Assessment Unit verified the existence of an order of protection. § 87(2)(b) indicated that § 87(2)(b) an involved party, entered a house located approximately 200 feet away.

PO DeFranco arrived at the door of the § 87(2)(b) residence and spoke with § 87(2)(b) who seemed not to understand what he was saying. PO DeFranco spoke to § 87(2)(b) who would not confirm whether § 87(2)(b) was inside. PO DeFranco briefly spoke with § 87(2)(b) at the door of the residence. § 87(2)(b) said that he did not have an order of protection, and let the door close on Lt. Arndt and PO DeFranco. PO DeFranco did not take § 87(2)(b) into custody because he wanted to de-escalate the situation. PO DeFranco did not see a firearm on § 87(2)(b)'s person at the time that he opened the door.

PO Melexenis, PO DeFranco's partner, said that PO DeFranco was the officer who was primarily collecting information at § 87(2)(b)'s residence. The latter mentioned a stay-away order of protection during his initial interview with officers, and that the white Range Rover dropped off a passenger at a house approximately one block away from his own. PO Melexenis believed that § 87(2)(b) would have been under arrest upon approach of the house, for menacing and for violating an order of protection. He believed that Lt. Arndt contacted the Threat

Assessment Unit while the officers went to the house that § 87(2)(b) pointed out. He said that when an officer—he did not remember who—knocked on the door, § 87(2)(b) answered, and was considered to be under arrest, but was unaware of why he was not placed under arrest.

Lt. Arndt was called to the § 87(2)(b) residence, and was informed by § 87(2)(b) that § 87(2)(b) and § 87(2)(b)—she did not remember who—had menaced her with a firearm, which had been pointed out of the window of a vehicle. Lt. Arndt remembered who these individuals were from a prior incident with § 87(2)(b) and § 87(2)(b). § 87(2)(b) family members stated that there was an order of protection between themselves and § 87(2)(b) and § 87(2)(b). Lt. Arndt contacted the Threat Assessment Unit, which initially verified that there was an order of protection between the § 87(2)(b) family and § 87(2)(b) and § 87(2)(b). Members of the § 87(2)(b) family mentioned that § 87(2)(b) and § 87(2)(b) lived nearby, and may have given him an address where he could find § 87(2)(b).

Lt. Arndt went with several officers to § 87(2)(b)'s house, where he saw § 87(2)(b) through a window of the house, and recognized him from a prior incident. When Lt. Arndt saw him, he considered him to be under arrest for § 87(2)(b).

§ 87(2)(b) Lt. Arndt did not remember directing any officers to the backyard of the house, or to anywhere on the property. Lt. Arndt stated that he would not have needed a warrant to enter the § 87(2)(b) residence and arrest § 87(2)(b) as § 87(2)(b) had menaced someone with a firearm and violated an order of protection.

PO Caputo, Lt. Arndt's driver, was part of the second unit that arrived on scene. He did not speak directly to any member of the § 87(2)(b) family, but saw § 87(2)(b) providing information to officers. He learned that earlier that day, two male individuals had parked in front of her house, and pointed a firearm at it. She identified § 87(2)(b) as one of the occupants, and said that he went to a house down the street. PO Caputo did not remember whether she identified him by name, or if he was the one who held the firearm. When PO Caputo arrived at the house where § 87(2)(b) was identified to be, § 87(2)(b) came to the door, then closed it. PO Caputo was informed that the officers planned to talk § 87(2)(b) out of the house.

PO Caputo went to the back of the house with PO Victor Mevo to ensure that § 87(2)(b) did not leave from the back of the house, but did not recall who, if anyone, directed him there.

PO Feit was another officer in the third unit to arrive at the § 87(2)(b) residence. When he arrived, he was present for a five-minute conversation with § 87(2)(b) in which she alleged that § 87(2)(b) and § 87(2)(b) with whom PO Feit was familiar from a prior incident, menaced her with a firearm. She said that the family had an order of protection against § 87(2)(b) and § 87(2)(b). § 87(2)(b) was on the front stoop of the house that she pointed out. He went into the house when officers started walking towards the house. PO Feit was told to go to the rear of the location by Lt. Arndt, the only supervisor on scene, to secure the rear of the location and ensure that no one left. He remained at the rear of the house with his gun drawn. PO Feit recalled that the back of the property was separated from the front by a four-foot high metal gate, and did not remember whether he opened it or not.

The final officer who participated in forming the perimeter around the § 87(2)(b) residence was PO Dussel, who watched to ensure that the subject, § 87(2)(b) did not leave. He did not report to the § 87(2)(b) house before going to the § 87(2)(b) residence.

Two police officers remained at the § 87(2)(b) residence after most of the other officers went to the § 87(2)(b) residence: PO Baranowski and PO Basilone. PO Baranowski did not pass any relevant information between the officers at the § 87(2)(b) residence and those at the § 87(2)(b) residence. PO Baranowski and PO Basilone testified that they learned that § 87(2)(b) had been menaced by an individual in a white Range Rover, and that there was an order of protection between § 87(2)(b) and the § 87(2)(b) family.

Captain Hall responded to the scene, and was informed by both § 87(2)(b) and § 87(2)(b) that they had an order of protection against § 87(2)(b) and § 87(2)(b). He was also informed that § 87(2)(b) and § 87(2)(b) had driven past their house in a white Range Rover, and that § 87(2)(b) had pointed a firearm at § 87(2)(b) § 87(2)(b) and § 87(2)(b) then identified § 87(2)(b) as § 87(2)(b)'s house.

Upon his arrival to § 87(2)(b)'s home, Lt. Arndt informed Captain Hall that § 87(2)(b) was seen walking by in the bay window. Lt. Arndt told Captain Hall that he considered § 87(2)(b) to be under arrest for § 87(2)(b). Captain Hall remembered that computer checks were likely done to verify the existence of the order of protection, but he could not determine whether he himself made these checks. He did not remember if Lt. Arndt communicated any specific reason to believe that there was a firearm in the house. There were approximately five officers on the property when Captain Hall arrived. He ordered them to the backyard to set up a perimeter to prevent § 87(2)(b)'s escape.

The criminal court complaint for this incident, from July 10, 2018, sworn by Det. James Phillips of the 111th Precinct Detective Squad—the officer ultimately assigned as the arresting officer in this case—states that § 87(2)(b) informed him that when she was arriving home, at approximately 5:47 p.m. on July 10, 2018, she saw a white Range Rover with § 87(2)(b) and § 87(2)(b) drive by, and then drive away. When the car drove past her house a second time, § 87(2)(b) pointed a black firearm out of the window (Board Review 41).

Det. Phillips interviewed § 87(2)(b) and § 87(2)(b) at their residence. They both said that they saw a car in front of their house with § 87(2)(b) and § 87(2)(b). While § 87(2)(b) went to press the panic button in his house, § 87(2)(b) pointed a firearm at § 87(2)(b). Det. Phillips articulated that someone, either a civilian or an officer said that there “should be” an order of protection, but Det. Phillips later learned that there was no order of protection when he spoke with the Queens District Attorney’s office, after the incident ended. Det. Phillips denied that he passed any information to officers between the § 87(2)(b) residence and the § 87(2)(b) residence, and he did not see any other officer do so.

Surveillance footage obtained from the Queens District Attorney’s office showed a white SUV driving at the front of the § 87(2)(b) residence, and then driving away. It did not show the side of the vehicle closest to the § 87(2)(b) residence.

The Event for this incident, § 87(2)(b) did not make any mention of a firearm, but mentioned simply that § 87(2)(b), § 87(2)(f). It mentioned that a lieutenant called ESU (Board Review 39).

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

By the time that Captain Hall arrived on scene, § 87(2)(b) was in the house. He was identified as being in the house by Lt. Arndt. Captain Hall directed Lt. Arndt to call ESU to the house for a barricaded perpetrator.

In People v. Avinger 140 A.D.3d 895 (2016), the court ruled that the fenced-in backyard of a house in Queens constituted curtilage protected under the Fourth Amendment, and that officers could not intrude upon it without exigent circumstances or a warrant (Board Review 42).

People v. McBride 14 N.Y.3d 440 (2010) enumerates the factors used to determine exigency: “(1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause ... to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises [***6] being entered; (5) a likelihood that the suspect will escape if not swiftly apprehended; and (6) the peaceful circumstances of the entry” (Board Review 43).

People v. Finlayson 76 A.D.2d 670 (1980) the principle of reasonableness for warrantless entries: that they must be “reasonably related in scope and intensity to the circumstances surrounding the encounter” (Board Review 44).

§ 87(2)(e)

Patrol Guide Procedure 208-36, which deals with domestic violence lays out guidelines for orders of protection. It states that if a complainant claims that they have an order of protection against an individual, then the officers involved must attempt to verify the order of protection using database checks. Even if an order of protection cannot be located, officers may enforce it if they have probable cause that it exists (Board Review 46).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(2)(e)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Abuse of Authority: Captain John Hall threatened to damage § 87(2)(b)'s property.

§ 87(2)(g)

It is not in dispute that Captain Hall, Lt. Arndt, and PO Melexenis threatened to break the door of § 87(2)(b) in Queens. Lt Arndt's body-worn camera shows him telling § 87(2)(b) that he was going to break the door (Board Review 13, timestamps 00:23:34 to 00:23:45 in the video player; Board Review 53, the entirety of the video subclip). PO Melexenis's body-worn camera shows that when he was talking to § 87(2)(b) he told him about the front door, "the door's gonna get taken and the door's gonna get broken" (Board Review 16, timestamps 00:03:53 to 04:20 in the video player; Board Review 47, the entirety of the video subclip).

§ 87(2)(b) said Captain Hall would arrest § 87(2)(b) and break the door if necessary to gain access to him. § 87(2)(b) at the time, called his attorney § 87(2)(b), who told him that the officers needed a warrant to enter the house. § 87(2)(b) told the officers that they were free to enter the house if they had a warrant.

§ 87(2)(b) and § 87(2)(b) stated that one of the officers on scene, a white male identified by the investigation as Captain Hall, said that he would break the door to get access to § 87(2)(b).

Captain Hall testified that he told the family members that he would force entry into the house.

PO Feit said that he told § 87(2)(b) that he could be placed into handcuffs, because he was interfering with the officers' ability to secure the rear of the house. PO Feit and PO Caputo placed their hands at shoulder height, made physical contact with § 87(2)(b) and § 87(2)(b) walked out on his own power.

While PO Caputo was at the back of the § 87(2)(b) residence, he saw § 87(2)(b) come to the back. He wanted § 87(2)(b) to leave, as he believed that there was someone with a firearm at the house. He lightly touched § 87(2)(b) on his back and guided him out of the backyard.

§ 87(2)(e)

§ 87(2)(b) New York State Penal Law section 195.05 defines obstructing governmental administration (OGA) as "interfering" with an "official function" (Board Review 49). Patrol Guide Procedure 221-01 requires officers to use force according to an objectively reasonable standard (Board Review 50).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Abuse of Authority: Captain John Hall stopped § 87(2)(b)

Allegation (G) Abuse of Authority: Captain John Hall frisked § 87(2)(b)

PO Melexenis's BWC footage showed § 87(2)(b) driving up to the front of the § 87(2)(b) residence. The video also shows Captain Hall frisking him in front of the house (Board Review 16, timestamps 00:00:49 to 00:01:47 in the video player; Board Review 55, entirety of the video clip).

§ 87(2)(b) and § 87(2)(b) saw officers place § 87(2)(b)'s arms behind his back after he arrived in his vehicle and braked hard in front of the house.

§ 87(2)(b) could not be reached by the investigation to give a statement regarding this incident (Board Review 33).

Captain Hall said that he saw a vehicle drive quickly to the front of the house. The driver parked the car hastily and rushed towards the house with a "determined" look on his face. Captain Hall thought that he could have been § 87(2)(b) not having seen § 87(2)(b) in person, and not having a physical description of him. He did not see anything on § 87(2)(b)'s

person suggestive of being in possession of a firearm. He frisked § 87(2)(b) s waistband.

Stop, Question, and Frisk Report § 87(2)(b) was completed by Captain Hall, and approved on December 31, 2018. Captain Hall testified during his CCRB interview that prepared this report when he realized that he would be interviewed as part of a CCRB investigation. It noted that Captain Hall frisked § 87(2)(b) because he suspected him of being armed and dangerous due to the fact that a violent crime was suspected, and that he drove into an “established perimeter” (Board Review 54).

PO Melexenis saw Captain Hall patting down § 87(2)(b) while an unidentified ESU officer held his arm behind his back.

Neither PO Caputo, PO DeFranco, nor Lt. Arndt remembered any civilians being frisked while they were on scene. Even after watching BWC footage of the § 87(2)(b) being stopped and frisked by Captain Hall, Lt. Arndt had no recollection of it occurring.

PO Dussel, PO Basilone, PO Baranowski, and PO Feit saw § 87(2)(b) drive in front of the house, but did not see him being stopped or frisked. Neither PO Mevo, Det. Phillips, nor PO DeFranco saw a car being driven to the front of the residence.

Per People v. De Bour 40 N.Y.2d 210 (1976), officers may stop individuals whom they believe are committing, have committed, or will imminently commit a misdemeanor or felony. They may frisk an individual whom they reasonably suspect to be armed (Board Review 56).

§ 87(2)(e)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (H) Abuse of Authority: Lieutenant William Arndt threatened to arrest § 87(2)(b)

Allegation (I) Force: Lieutenant William Arndt used physical force against § 87(2)(b)

PO Dussel’s BWC footage showed § 87(2)(b) walking to the front of the house with the house keys, and Lt. Arndt telling her to move away from the doorstep and go down the

stairs. He then placed his hand on her shoulder and pushed her once with one hand, away from the front door. He said to her, "If you don't go downstairs, you're gonna get arrested." He, PO Basilone, and PO Dussel followed § 87(2)(b) and § 87(2)(b) who tried to speak with § 87(2)(b) to the sidewalk, when Lt. Arndt put one hand on § 87(2)(b)'s back a second time, and pushed her. None of these pushes appeared to cause § 87(2)(b) to fall forward or stumble (Board Review 15, timestamps 00:07:23 to 08:08 in the video player; Board Review 57, the entirety of the video subclip).

§ 87(2)(b) stated that after § 87(2)(b) drove to the front of the house, he gave her the keys to the front door of the house, so that she could restrain her dog. She approached her house through the front porch. Lt. Arndt told her that she could not go into the house. § 87(2)(b) said that she wanted to restrain her dog. Lt. Arndt told her that she could not go inside. He pushed her with two hands, and told her that he would arrest her if she did not calm down. § 87(2)(b) was not injured as a result.

§ 87(2)(b) testified that he saw two officers push § 87(2)(b) from a second-story window of § 87(2)(b).

§ 87(2)(b) said that he saw an officer grab § 87(2)(b) roughly, "like a man." He did not describe this action further.

§ 87(2)(b) remembered § 87(2)(b) being pushed away from the front of the house.

Before watching PO Dussel's BWC footage, Lt. Arndt denied telling anyone that they would be arrested if they went near the house, nor did he remember pushing anyone away from it. After watching PO Dussel's video, he identified himself as the officer who took these actions. He said that he told § 87(2)(b) that she could be arrested because he did not want her to get hurt. He said that she could have been charged with obstructing governmental administration if ESU had been on scene. He did not remember if ESU was on scene at the time.

§ 87(2)(e)
New York State Penal Law section 195.05 defines obstructing governmental administration as "interfering" with an "official function" (Board Review 49). Patrol Guide Procedure 221-01 requires officers to use force according to an objectively reasonable standard (Board Review 50).

§ 87(2)(g)
§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB case involving § 87(2)(b) (Board Review 58).
- This is the first CCRB case involving § 87(2)(b) (Board Review 59).
- This is the first CCRB case involving § 87(2)(b) (Board Review 60)
- This is the second CCRB case involving § 87(2)(b) § 87(2)(b)
[REDACTED]
[REDACTED]
[REDACTED]
- Captain Hall has been a member of service for 14 years. Two prior complaints, and 6 prior allegations have been filed against him.
 - In case 201904032, stop and search allegations were substantiated, and charges were recommended by the Board. The NYPD gave Instructions § 87(4-b) § 87(2)(g)
[REDACTED]
- Lt. Arndt has been a member of service for 27 years. Three prior complaints, and four prior allegations, have been filed against him. None have been substantiated.
 - § 87(2)(g)
[REDACTED]
- PO Feit has been a member of service for 13 years. Two prior complaints, with three prior allegations, have been filed against him. None has been substantiated.
 - § 87(2)(g)
[REDACTED]
- PO Caputo has been a member of service for four years. This is the first complaint filed against him.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of October 8, 2019, the New York City Office of the Comptroller does not have a record of a Notice of Claim being filed in regards to this complaint (Board Review 62).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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